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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/049,844

02/19/2002

Paul A Evans

36-1522

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23117 7590 05/17/2007  
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EXAMINER

LASHLEY, LAUREL L

ART UNIT

PAPER NUMBER

2132

MAIL DATE

DELIVERY MODE

05/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/049,844

Applicant(s)

EVANS ET AL.

Examiner

Laurel Lashley

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments with respect to amended claims 1 – 2 and new claims 19 – 21 submitted 02/15/2007 have been accepted and entered. As such claims 1 – 21 are pending and have been examined.

### ***Response to Arguments***

2. Applicant's arguments, see pages 8 - 11, filed 02/15/2007, with respect to the rejection(s) of claim(s) 1 – 18 under 35 USC 1029b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 103(a).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 2, 4 – 6, 10 – 16, 19 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over N slund et al. in US Patent No. 5557676 (hereinafter US '676) and further in view of McDonald in US Patent No. 4965827 (hereinafter US '827).

4. For claim 1 and similar claims 6 and 12, US '676 discloses:

A method of conveying a data packet over a packet network from a first server to one or more authorized recipient servers, the method comprising:

(i) a first server, storing a list comprising one or more non-duplicated random numbers;  
(see column 7, lines 5 – 7: list at system)

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(ii) sending a copy of said list to an authorized recipient server by secure communication means; (column 7, lines 5 – 7: list at remote station; see column 4, lines 15 – 25: secure means...)

*but does not expressly disclose*

(iii) selecting a number from said list of stored random numbers and including said selected random number in a data packet to be sent to said authorized recipient server wherein said selected random number has not previously been selected and included in a data packet to be sent; and

(iv) sending said data packet to said authorized recipient server.

McDonald in US '827 however does disclose (iii) selecting a number from said list of stored random numbers and including said selected random number in a data packet to be sent to said authorized recipient server wherein said selected random number has not previously been selected and included in a data packet to be sent; and

(iv) sending said data packet to said authorized recipient server (see Figure 2: random number included in data packet).

Naslund et al. and McDonald are analogous art because they are from the same problem solving areas (authentication of data packets). At the time of the invention, it would be obvious to one of ordinary skill in the art to modify the list of random indexed numbers at the source and destination systems of Naslund such that a number would be included in a data packet transmitted to a destination system as in McDonald. The motivation for doing so would have been to allow a high degree of security by authenticating communications so as to minimize the risk of fraudulent transmission or reception of data packets. Naslund discloses communication transmission in analog form while McDonald discloses communication in digital form. The communication transmissions are obvious variants of each other and it would be

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obvious to a skilled artisan to convert an analog communication to a digital communication to simplify and improved the communication.

For claim 2 and similar claims 19, 20 and 21, US '676 discloses:

A method according to Claim 1, further including: receiving an acknowledgement message including a sequence number; identifying the position of said selected random number within said list of stored random numbers from step (iii);

(vii) comparing said received sequence number with said identified position; and

(viii) re-sending said data packet to said authorized recipient server if, at step (vii), said sequence number does not match said identified position. (see column 4, lines 62 – column 5, lines 1 – 7: comparing values at source and destination system list numbers...)

For claim 4 and similar claim 10, US '676 discloses:

A method of conveying a data packet over a packet network from a first server to one or more authorized recipient servers, the method comprising:

(a) receiving by secure communication means at an authorized recipient server, a list comprising one or more unique non-duplicated random numbers, and storing said list; (see column 7, lines 5 – 7)

(b) receiving at the authorized recipient server a data packet including a random number that is included in said list of authentic; (see column 4, lines 15 – 25)

*but does not expressly disclose*

(c) sending a message acknowledging receipt of said data packet if said received included number is contained within said stored list of one or more non-duplicated random numbers and if said included number was not included in an earlier received data packet.

McDonald in US '827 however does disclose (c) sending a message acknowledging receipt of said data packet if said received included number is contained within said stored list of

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one or more non-duplicated random numbers and if said included number was not included in an earlier received data packet (see Figure 2: random number included in data packet).

Naslund et al. and McDonald are analogous art because they are from the same problem solving areas (authentication of data packets). At the time of the invention, it would be obvious to one of ordinary skill in the art to modify the list of random indexed numbers at the source and destination systems of Naslund such that a number would be included in a data packet transmitted to a destination system as in McDonald. The motivation for doing so would have been to allow a high degree of security by authenticating communications so as to minimize the risk of fraudulent transmission or reception of data packets. Naslund discloses communication transmission in analog form while McDonald discloses communication in digital form. The communication transmissions are obvious variants of each other and it would be obvious to a skilled artisan to convert an analog communication to a digital communication to simplify and improved the communication.

For claim 5 and similar claims 11 and 16, US '676 discloses:

A method according to Claim 4, wherein, at step (c), said acknowledgement message includes a sequence number indicative of the position of said included number within said stored list.  
(see column 5, lines 1 – 10)

For claim 13, US '676 discloses:

A method as in Claim 12 wherein said unique data values in the list are random data values.  
(see column 7, lines 5 – 7)

For claim 14, US '676 discloses:

A method as in Claim 12 wherein said included member of the list is selected from a random position in the list. (see column 7, lines 5 – 7)

For claim 15, US '676 discloses:

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A method as in Claim 12 wherein : said unique data values in the list are random data values; and said included member of the list is selected from a random position in the list. (see column 7, lines 5 – 7)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 7 – 9, and 17 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over N slund et al. in US Patent No. 5557676 (hereinafter US '676) and McDonald in US Patent No. 4965827 (hereinafter US '827) further in view of Nishio in US Patent No. 5521732 (hereinafter US '732).

6. For claim 3 and similar claims 7 – 9 and 17 – 18, US '676 discloses the method of sending a data packet but does not expressly disclose resending the data packet if a first attempt failed or was not received.

Nishio however in US '732 disclose resending a data packet (see Abstract: signal indicating resending...).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the method of sending a data packet as in Naslund et al. such that it would be resent to a recipient if a first attempt failed or was not received as in Nishio. The motivation for doing so would have been to ensure data packet transmission to an authorized recipient.

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**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurel Lashley whose telephone number is 571-272-0693. The examiner can normally be reached on Monday - Thursday, alt Fridays btw 7:30 am & 5 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, Jr. can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laurel Lashley  
Examiner  
Art Unit 2132

ALL

11 May 2007

  
Benjamin E. Carter  
Examiner Art Unit 2132